

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.4189 OF 2022

MOHINI MAYUR UTAGE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA THRU THE REGISTRAR

...
Advocate for Petitioners : Mr. Mahishankar L. Dharashive
Advocate for Respondent : Mr. Chandrakant K. Shinde
...

CORAM : MANGESH S. PATIL, J.

DATE : 28.06.2022

PER COURT :

The petitioners are the husband and wife who had applied for divorce by mutual consent before the Family Court at Latur. By the order under challenge, the learned Judge has refused to consider the request to waive the statutory period with following observation in paragraph No.4:

“There is nothing on record to show that the efforts of mediation, conciliation etc. have been made as per the ratio of Hon’ble Supreme Court. Further, the waiting period will not prolong the agony of the parties. If efforts of mediation and conciliation are made, then there is possibility of re-union between them. The matter is not covered by the ratio of Hon’ble Supreme Court in the above cited case. Therefore, I do not find it a fit case to waive the statutory period. Hence, application for waiver of period is rejected.”

2. It is quite apparent that by referring to the decision of the Supreme Court in the matter of **Amardeep Singh Vs. Harveen Kaur; AIR**

2017 Supreme Court 4417 the learned Judge was expecting the petitioners to comply with the conditions mentioned therein. It was specifically observed that there was no record about the parties having explored the possibility of any settlement either by going for mediation or conciliation. Even he mentioned that there was nothing before him to conclude that statutory waiting period will prolong the agony of the parties. He also recorded that if the efforts of mediation and conciliation were made, there was a possibility of reunion. All in all, he has objectively recorded the reason for not waiving the statutory period.

3. The scenario has not undergone any material change even after filing of the Writ Petition. The parties were referred for mediation by the order dated 08.04.2022. The mediator has reported that the mediation was successful. However, neither the terms of settlement have been annexed to the report nor is there anything in the order of reference dated 08.04.2022 to indicate as to what extent and in what respect the parties were referred for mediation. It is not a report regarding failure of mediation.

4. Only a joint affidavit of the petitioners has been filed on the record dated 26.04.2022, indicating that the mediation attempt at Latur has failed. There was no possibility of reunion. They have been residing separately since 2020 and the statutory period be waived.

5. I am afraid, in spite of having approached this Court the petitioners seem to be ignorant rather adamant in not complying with the

four conditions laid down by the Supreme Court in the matter of **Amardeep Singh** (supra).

6. The Writ Petition is dismissed. It shall be open for the petitioners to approach the Family Court once again if they comply with the conditions laid down by the Supreme Court.

(MANGESH S. PATIL, J.)

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